

February 1, 2022

Jill Grossman, Counsel  
North Dakota Legislative Council  
State Capitol  
Bismarck, ND 58505

RE: Proposed Amendments to N.D. Admin. Code chapter 75-03-17  
Psychiatric Residential Treatment Facilities for Children

Dear Ms. Grossman:

Enclosed for filing in the office of the Legislative Council is the Notice of Intent to amend Administrative Rules concerning the above proposed rules as required by N.D.C.C. section 28-32-10. Also enclosed is a copy of the proposed rules.

We have requested publication of an abbreviated newspaper publication notice once in each official county newspaper which will notify the public that an oral hearing on these rules will be held on Monday, March 14, 2022, beginning at 9:30 a.m. and continuing until 11:00 a.m. or until no further testimony is offered, whichever occurs first.

If you have any questions or concerns, please contact me at 328-2311. Thank you.

Sincerely,



Jonathan Alm  
Legal Advisory Unit

JA/rv

cc: Pam Sagness, Behavioral Health Division  
Kelli Ulberg, Behavioral Health Division

Enclosures

**LEGAL ADVISORY UNIT**

600 E Boulevard Ave Dept 325 | Bismarck ND 58505-0250

701.328.2311 | Fax 701.328.2173 | 800.472.2622 | 711 (TTY) | [www.nd.gov/dhs](http://www.nd.gov/dhs)

NOTICE OF INTENT TO AMEND  
ADMINISTRATIVE RULES RELATING TO  
N.D.A.C. CHAPTER 75-03-17  
PSYCHIATRIC RESIDENTIAL TREATMENT FACILITIES FOR CHILDREN

TAKE NOTICE that the North Dakota Department of Human Services will hold a public hearing to address proposed amendments to N.D. Admin. Code chapter 75-03-17, Psychiatric Residential Treatment Facilities for Children, at 9:30 a.m. on Monday, March 14, 2022, in Bismarck, N.D. in Room 210, located on the second floor of the Judicial Wing of the State Capitol.

The proposed changes are as follows:

**Section 75-03-17-01** is amended to create definitions for “accredited”, “active treatment”, “aftercare”, “condition”, “sentinel event”, and “serious risk of harm”; to revise definitions for “employee”, “personal restraint”, and “psychiatric residential treatment facility for children”; and to remove the definition of “serious occurrence”.

**Section 75-03-17-02** is amended to remove the requirement that a facility submit an architectural plan and a projected twelve-month budget; to reduce the time period required for a facility to submit a license renewal application from forty-five days to fifteen days; and to add new language establishing license report procedures.

**Section 75-03-17-03** is amended to remove requirements that an applicant submit legal status information and a financial plan to the Department and to remove language requiring financial accounts to be audited annually.

**Section 75-03-17-04** is amended to revise and remove language regarding admissions; to require a facility to provide a short term intense focused treatment to promote successful return of the youth to the community; to require the facility to submit the diagnostic assessment and plan of care to the payor source; to reduce the period during which a facility must grant or deny a completed application from fourteen to three days; and to add language providing that if an application is denied, the facility must provide recommendations for available services and supports.

**LEGAL ADVISORY UNIT**

600 E Boulevard Ave Dept 325 | Bismarck ND 58505-0250

701.328.2311 | Fax 701.328.2173 | 800.472.2622 | 711 (TTY) | [www.nd.gov/dhs](http://www.nd.gov/dhs)

**Section 75-03-17-05** is amended to outline a facility's duties in providing a medical, psychiatric, and psychological assessment, active treatment, and therapies; to revise what is required within diagnostic assessments; to modify requirements relating to the minimum amount of specialist services; to require twenty-four-hour nursing; to modify requirements relating to development and use of an individual person-centered treatment plan; and to remove language regarding work experience.

**Section 75-03-17-06** is amended to revise the order, signature, expand the licensed professionals, and face-to-face assessments regarding physical restraints and seclusions; to revise "independent clinical social worker" to "licensed clinical social worker"; to require notification of physical restraint or seclusion of a child to be made within twelve hours; and to remove language regarding reporting of serious occurrences that is replaced by section 75-03-17-22.

**Section 75-03-17-07** is amended to clarify medical care.

**Section 75-03-17-09** is amended to revise language to not conflict with a defined term and update daily diet requirements.

**Section 75-03-17-10** is amended to permit an employee to start training, orientation, and job shadowing while the employee's background checks are being completed.

**Section 75-03-17-12** is amended to require development of a discharge plan within seven days of admission; to require an interdisciplinary team to review the discharge plan every fourteen days at the same time as the treatment plan review and update or amended as needed; to add language regarding the coordination of community services; to add language requiring the discharge committee to review and approve each anticipated discharge thirty days prior to discharge and to provide the completed discharge plan to the custodian at least seven days prior to discharge; to create procedures for processing unplanned discharges; and to add language stating that the facility may not discharge a child without community-based support services in place.

**Section 75-03-17-16** is amended to correct a spelling error and to require employees be trained on suicide prevention, motivational interviewing, and trauma training.

**Section 75-03-17-16.1** is amended to revise child abuse and neglect reporting language to align with language in chapter 75-03-40; to clarify that the child abuse and neglect reporting process applies to employees and nonemployees; and to provide that internal facility reviews and investigations are not permitted to occur concurrent with a Department assessment or law enforcement investigation.

**Section 75-03-17-16.2** is amended to update language regarding fingerprint-based criminal backgrounds checks for employees and nonemployees and to add language regarding status of employment or placement and the status while awaiting the results of the background checks.

**Section 75-03-17-17** is amended to clarify that qualified psychiatric professionals may be employed or contracted to meet the resident needs.

**Subsection 7 of section 75-03-17-20** updates “program” to “facility”.

**Section 75-03-17-22** creates new language regarding incident and sentinel event reporting policy, documentation, and debriefing, replacing previous language that had been located in section 75-03-17-06.

**Section 75-03-17-23** creates new language regarding conditions, including immediate correction of a condition that threatens the life or safety of a resident, a facility’s plan of corrective action, implementation of the plan, Department’s onsite review, the ability to suspend a license and issue a provisional license, the Department’s ability to grant extensions, and setting forth a timeline as to when a revoked facility may reapply for licensure.

**Section 75-03-17-24** creates new language permitting the Department to issue a variance upon written application and good cause and the variance process.

The proposed amendments are not anticipated to have an impact on the regulated community in excess of \$50,000. No taking of real property is involved in this rulemaking action.

Copies of the proposed rules are available for review at human service zones and at human service centers. Copies of the proposed rules and the regulatory analysis relating to these rules, may be requested by telephoning (701) 328-2311. Written or oral data, views, or arguments may be entered at the hearing or sent to: Rules Administrator, North Dakota Department of Human Services, State Capitol -

Judicial Wing, 600 E. Boulevard Ave., Dept. 325, Bismarck, ND 58505-0250. Written data, views, or arguments on the proposed rules must be received no later than 5:00 p.m. on Thursday, March 24, 2022.

**ATTENTION PERSONS WITH DISABILITIES:** If you plan to attend the hearing and will need special facilities or assistance relating to a disability, please contact the Department of Human Services at the above telephone number or address at least two weeks prior to the hearing.

Dated this 1<sup>st</sup> day of February, 2022.

February 1, 2022

RE: Proposed amendments to N.D. Admin. Code chapter 75-03-17  
Psychiatric Residential Treatment Facilities for Children

TO WHOM IT MAY CONCERN:

The Department of Human Services is proposing amendments to N.D. Admin. Code chapter 75-03-17, Psychiatric Residential Treatment Facilities for Children. The department has adopted procedures to assure public input into the formulation of the rules prior to adoption.

In conformity with those procedures, we are providing you with a copy of the proposed rules and are requesting that you provide any written data, views, or arguments no later than 5:00 p.m. on Thursday, March 24, 2022.

The department has scheduled an oral hearing for Monday, March 14, 2022. Further information concerning the public hearing is included in the attached notice of proposed rulemaking and public hearing.

Your participation is welcomed, as are your suggestions. Please send all written data, views, or arguments to: Rules Administrator, Department of Human Services, State Capitol - Judicial Wing, 600 E. Boulevard Ave., Bismarck, ND 58505-0250.

Sincerely,



Christopher Jones,  
Executive Director

CDJ/rv

Enclosures

cc: Jill Grossman, Legislative Council  
Pam Sagness, Behavioral Health Division  
Kelli Ulberg, Behavioral Health Division

**EXECUTIVE OFFICE**

GOVERNOR  
Doug Burgum

EXECUTIVE DIRECTOR  
Christopher Jones